

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
SHERMAN DIVISION**

UNITED STATES OF AMERICA	§	
	§	
v.	§	CRIMINAL NO. 4:02CR88.2
	§	
CHADRIC DEWAYNE LUPER	§	

**REPORT AND RECOMMENDATION
OF UNITED STATES MAGISTRATE JUDGE**

Pending before the Court is the request for revocation of Defendant's supervised release. After the District Court referred the matter to this Court for a report and recommendation, the Court conducted a hearing on November 18, 2013, to determine whether Defendant violated his supervised release. Defendant was represented by Frank Henderson. The Government was represented by Randy Blake.

On July 1, 2003, Defendant was sentenced by the Honorable Paul Brown, United States District Judge, to a sentence of 180 months imprisonment followed by a five-year term of supervised release for the offense of Conspiracy-Manufacture, Distribute, Possess, Dispense Cocaine Base (Crack)/Marijuana. On March 20, 2009, the sentence was amended to 142 months of imprisonment giving credit to time served in state custody. On November 15, 2011, after considering a motion filed pursuant to Title 18 U.S.C. § 3582(c)(2), the Court reduced the imprisonment term to 120 months. Defendant began his term of supervision on November 23, 2011. On November 20, 2006, the case was transferred to the Honorable Richard A. Schell, United States District Judge.

On October 11, 2013, the U.S. Probation Officer filed a Petition for Warrant or Summons for Offender Under Supervision (the "Petition") (Dkt. 645). The Petition asserts that Defendant

violated the following conditions of supervision: (1) Defendant shall not commit another federal, state, or local crime; and (2) Defendant shall refrain from excessive use of alcohol and shall not purchase, possess, use, distribute, or administer any controlled substance or any paraphernalia related to any controlled substances, except as prescribed by a physician.

The Petition alleges that Defendant committed the following violations: (1) On or about September 22, 2013, Defendant was arrested by the Denison, Texas, Police Department and charged with assaulting a public servant. It is alleged Defendant punched a Denison Police Officer in the face with a closed fist knocking the officer to the ground. Defendant was released from custody the following day after posting a \$20,000 surety bond. As of October 11, 2013, this charge remains pending; (2) As previously reported to the Court on July 26, 2013, Defendant was arrested by the Grayson County, Texas, College Police Department on or about April 26, 2012, and charged with driving while intoxicated; and (3) On April 12, 2013, Defendant pled guilty to this offense in County Court at Law No. 2 of Grayson County, Texas, in Cause No. 2012-2-166, and sentenced to 365 days of confinement, suspended to two years probation and a \$1,000 fine.

At the hearing, Defendant entered a plea of not true to the alleged violations. At the hearing, the Court heard the testimony of Officer Jackie Thomas, Officer Jose Reyna, Officer Wesley Bounds, Officer Thomas Unerfusser, all from the Denison Police Department. The Court also heard the testimony of Brennan Smithson and Defendant himself.

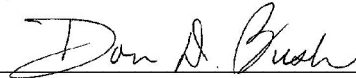
Having considered the testimony presented, the Court finds that Defendant has violated the terms of his supervised release and that his supervised release should be revoked.

Defendant waived his right to allocute before the district judge and his right to object to the report and recommendation of this Court.

RECOMMENDATION

Pursuant to the Sentencing Reform Act of 1984 and having considered the arguments presented at the November 18, 2013 hearing, the Court recommends that Defendant be committed to the custody of the Bureau of Prisons to be imprisoned for a term of thirty-seven (37) months, with no supervised release to follow.

SIGNED this 18th day of December, 2013.



DON D. BUSH
UNITED STATES MAGISTRATE JUDGE